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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,182	03/26/2004	Scott Simmonds	8266-1263	2943
25267	7590	11/01/2005	EXAMINER	
BOSE MCKINNEY & EVANS LLP 135 N PENNSYLVANIA ST SUITE 2700 INDIANAPOLIS, IN 46204			SANTOS, ROBERT G	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/811,182	SIMMONDS ET AL.
	Examiner Robert G. Santos	Art Unit 3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 3/26, 6/28 & 9/27/2004; and 7/25/2005.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-33 and 59-61 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,2,9-11,13,15-18,22-24,26-29,32 and 59-61 is/are rejected.

7) Claim(s) 3-8,12,14,19-21,25,30,31 and 33 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 06282004, 09272004.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 30 is objected to because of the following informalities: In line 4, the term "handle member" should be changed to the phrase --means for moving--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 10, 11 and 59 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,186,456 to Huempfner. Huempfner '456 shows the claimed limitations of a patient support comprising, a frame (1-3); a siderail supported by the frame, the siderail including a rail member (10 & 11), a linkage (5-9) configured to permit vertical movement of the rail member between a raised position and a lowered position (as described in column 2, lines 42-48 and in column 3, lines 5-10), and a latching mechanism (16) configured to retain the rail member in at least one of the raised position and the lowered position; and the latching mechanism including a rocker arm (23) having first and second ends movable about a pivot axis (defined by element 24), a handle member (17) coupled proximate the first end of the rocker arm, a latch member (25) coupled proximate the second end of the rocker arm (by element 26),

the handle member being configured to pivot the rocker arm about the pivot axis such that the rocker arm moves the latch member between a latched position which prevents vertical member of the rail member and an unlatched position which permits vertical movement of the rail member (as described in column 2, lines 65-67 and in column 3, lines 5-7). As concerns claim 2, the reference discloses a condition wherein the latching mechanism includes a pair of latch members (25, 27) configured to move toward each other during movement from the latched position to the unlatched position, and configured to move away from each other during movement from the unlatched position to the latched position. With regards to claims 10 and 11, the reference is considered to show the use of an indicator (the outer surface of element 17) operably coupled to the latch member and configured to provide a visual indication of the unlatched position (when moved in a horizontal direction away from the latched position as shown in Figure 3), wherein the indicator includes an indicating surface configured to move in response to movement of the latch member. As concerns claim 59, the reference further discloses the use of a mattress (4) supported by the frame.

4. Claims 13, 15-18, 22-24, 26-29, 32, 60 and 61 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,653,129 to Kuck et al. As concerns claims 13 and 26, Kuck et al. '129 show the claimed limitations of a patient support (10) comprising a frame (26); a siderail (40) supported by the frame, the siderail including a rail member (44, 46 or 48), a linkage (42, 52, 54 and 58) configured to permit vertical movement of the rail member between a raised position (as shown in Figure 3) and a lowered position (as shown in Figure 6), and a latching mechanism or retaining member (70) configured to retain the rail member in at least one of the

raised position and the lowered position; and the latching mechanism or retaining member including a latch member (72) configured to move between a first latched position which prevents vertical movement of the rail member and an second unlatched position which permits vertical movement of the rail member, and a handle member or means for moving the retaining member (50) operably coupled to the latch member (through element 102) and configured to provide movement of the latch member between the first latched position and the second unlatched position, wherein movement of the handle member or means for moving the retaining member in a first plane and in a first direction causes movement of the latch member or retaining member in a second plane not parallel to the first plane and in a second direction not parallel to the first direction (as shown in Figure 3 and as described in column 5, lines 27-31). With regards to claims 15, 16, 27 and 28, the reference is considered to show the use of an indicator (the inner surface of element 50) operably coupled to the latch member or the retaining member and configured to provide a visual indication of the second unlatched position (when rotated in the direction indicated by arrow 80 as shown in Figure 3), wherein the indicator includes an indicating surface configured to move in response to movement of the latch member or retaining member. As concerns claim 17 and 29, the reference discloses a condition wherein the linkage includes a link (42) having a base configured to receive the latching mechanism or retaining member and defining an indicator opening (92); and the indicator is fixed to the handle member or means for moving the retaining member and is configured to move relative to the indicator opening such that the indicating surface is visible when the latch member or retaining member is in the second unlatched position and is substantially hidden by the base when the latch member or retaining member is in the first latched position. With regards to claim 18, the reference is

considered to show a condition wherein the latch member (72) includes a longitudinal axis and is configured to move along the longitudinal axis between the latched position and the unlatched position in column 4, lines 47-48 and in column 5, lines 30-31.

As concerns claims 22 and 23, the reference discloses a condition wherein the linkage includes a link (42) having a base configured to support the latching mechanism and defining a handle opening (92), the handle member (50) includes an end (82) accessible from the handle opening, and further comprising a spring (106) positioned intermediate the handle member and the base of the link, the spring being configured to bias the handle member such that the latch member is in the latched position. With regards to claims 24 and 32, the reference is considered to show a condition wherein the linkage includes a first link (52) coupled to the frame, a second link (54) pivotably coupled to the first link, a third link (42) pivotably coupled to the second link, and a fourth link (58) pivotably coupled to the third link and the first link, the latch member or retaining member (72) in the first latched position being configured to bind the fourth link and the first link to prevent pivoting movement therebetween (as described in column 4, lines 38-46). As concerns claims 60 and 61, the reference further discloses the use of a mattress (39) supported by the frame.

#### *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huempfner '456. Huempfner '456 teaches the use of a latch member (25 or 27) comprising an elongated member substantially in the shape of a bar as opposed to comprising a substantially cylindrical pin as claimed. It would have been an obvious matter of design choice at the time the invention was made to modify the Huempfner '456 reference by providing a latch member in the form of a substantially cylindrical pin since it appears that the latch member would perform equally well with a non-cylindrical elongated shape as taught by Huempfner '456.

*Allowable Subject Matter*

7. Claims 3-8, 12, 14, 19-21, 25, 30, 31 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The examiner respectfully asserts that one of ordinary skill in the art would not have found it obvious at the time the invention was made to modify the latching mechanism of the patient support of Huempfner '456 to include a handle member which is configured to slide along a *linear* path as recited in claims 3 & 4 and which includes a first end *pivotably* coupled to the rocker arm as recited in claims 5 & 6; the distinct linkage structure as recited in claims 7 and 8; and the particular indicator configuration as recited in claim 12. The examiner also respectively asserts that one of ordinary skill in the art would not have found it obvious at the time the invention was made to modify the latching mechanism of the patient support of Kuck et al. '129 to include a pair of latch members configured to *move toward and away from each other* between latched and unlatched positions as recited in claim 14; the use of a rocker arm coupled between the handle and latch members as

recited in claims 19, 20 and 30; a handle member which is configured to slide along a *linear* path as recited in claims 21 and 31; and a latch aperture *formed in a flange coupled to the frame* for receiving the latch member as recited in claim 25 and 33.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Simmonds et al. '443, Heimbrock et al. '815, Heimbrock et al. '253, Heimbrock et al. '361, Heimbrock et al. '035, Heimbrock et al. '283, Lin '592, Feldpausch '953, Singleton '913, Yindra '452, Hannes '257, Doyle '450, Kato et al. '272, Weinerman et al. '338, Smith et al. '977, Tacheny et al. '328, Gianessi '647, Moore '259, Mixon '403, Gertsfeld '799, Lundberg et al. '459, Bristol '866, Lieberman '249, Carter '435, Kuretich '011, Chappelle '399, Banks '652, Miley '941, Hermon '211, Toothaker '063, Zerfas et al. '356, Hebert '903, Livingston '784, Du Four '534 and Jeche '253.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (571) 272-7048. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert G. Santos  
Primary Examiner  
Art Unit 3673

R.S.  
October 28, 2005